



Entered on Docket
October 14, 2011

A handwritten signature in black ink, appearing to read "Linda B. Riegle", is written over a horizontal line.

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

Robert M. Charles, Jr. (NV 6593)
John Hinderaker (AZ 018024)
Marvin Ruth (NV 10979)
3993 Howard Hughes Parkway, Ste. 600
Las Vegas, Nevada 89169-5996
Telephone (702) 949-8320
Facsimile (702) 949-8321
Email: rcharles@lrlaw.com
jhinderaker@lrlaw.com
mruth@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

**USA COMMERCIAL MORTGAGE
COMPANY,**

Debtor.

Case No. BK-S-06-10725-LBR
Chapter 11

**Order Sustaining Fourth Omnibus
Objection Of USACM Trust To Proofs Of
Claim Based In Part Upon Investment In
The Binford Medical Developers Loan,
Except for Claim of Morris Massry; and
Notice of Scheduling Conference re Morris
Massry Proof of Claim**

Hearing Date: September 30, 2011
Hearing Time: 9:30 a.m.

Scheduling Conference: October 18, 2011
Time: 1:30 p.m.

The Court having considered the "Fourth Omnibus Objection Of USACM Trust To Proofs Of Claim Based In Part Upon Investment in The Binford Medical Developers Loan" [DE 8857] (the "Objection"); the Court having heard the Objection on September 30, 2011; appropriate notice of the Objection having been given; Morris Massry having filed a response to the Objection [DE 9138]; no other responses to the Objection having

1 been filed; the Court noting on the record that the disallowance of the Claims listed on
2 **Exhibit A** does not affect the direct lenders' right to repayment by the borrower or from
3 the collateral securing the Binford Medical Developers Loan; and good cause appearing:

4 **IT IS ORDERED** that:

5 1. The Objection [DE 8857] is sustained, except as it relates to Proof of Claim
6 No. 10725-01898 filed by Morris Massry (the "Massry Claim");

7 2. The remaining claims listed on **Exhibit A** attached are 85% disallowed and
8 15% allowed to the extent those claims are based upon an investment in the Binford
9 Medical Developers Loan.

10 3. A scheduling conference is set regarding the Objection as it relates to Proof
11 of Claim No. 10725-01898 by Morris Massry for **October 18, 2011 at 1:30 p.m.** at the
12 U.S. Bankruptcy Court, 300 Las Vegas Boulevard South; Courtroom # 1, Las Vegas, NV
13 89101;

14 2. If Mr. Massry fails to appear at the scheduling conference, the Court may
15 deem his response to the Objection withdrawn and sustain the Objection without further
16 proceedings, meaning that Mr. Massry's claim would be disallowed;

17 3. Counsel for Morris Massry may request to appear telephonically at the
18 scheduling conference on October 18, 2011, by sending a written request to the Honorable
19 Linda B. Riegle, U.S. Bankruptcy Court; 300 Las Vegas Boulevard South; Las Vegas, NV
20 89101, or sending a facsimile request to 702-527-7015. The written request must be
21 received by the Court on or before **October 11, 2011** or it will be denied without good
22 cause shown for failing to timely request permission to appear telephonically; and

23 4. If the Court grants permission to appear telephonically, Counsel for Morris
24 Massry should contact CourtCall at least 48 hours prior to the hearing by telephone at 1-
25 888-882-6878, or by facsimile at 888-883-2946, to make arrangements for the telephonic
26 appearance. CourtCall will require the Court location, Judge's name, case name, case
number, and date and time of the hearing. CourtCall charges are to be paid by claimant.

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2 PREPARED AND RESPECTFULLY SUBMITTED BY:

3
4 **LEWIS AND ROCA LLP**

5 By /s/ John Hinderaker (AZ #018024)

6 Robert M. Charles, Jr.

7 John Hinderaker (*pro hac vice*)

8 3993 Howard Hughes Parkway, Ste. 600

9 Las Vegas, Nevada 89169-5996

Telephone: (702) 949-8320

Facsimile: (702) 949-8321

10 *Attorneys for USACM Liquidating Trust*

LOCAL RULE 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

_____ This Court has waived the requirement set forth in LR 9021(b)(1).

_____ No party appeared at the hearing or filed an objection to the motion.

XXX I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

_____ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order

U.S. Trustee: _____	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input checked="" type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document
Other Party: <u>Erika C Browne</u>	
<input checked="" type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document



Erika C. Browne
 Segel, Goldman, Mazzotta & Siegel, P.C.
 9 Washington Square
 Albany, NY 12205
 Attorney for Morris Massry
 E-mail: ebrowne@sgmalbany.com

Submitted by:
 LEWIS AND ROCA LLP

By: /s/ John Hinderaker. (AZ #018024)
 Attorneys for USACM Liquidating Trust

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USACM Trust

Binford Medical Developers Loan

Multiple Loan Claims

Claim	Name	Address	Total Claim Amount	Approximate Amount Related to an Investment In the Binford Medical Developers, LLC Loan	Amount Disallowed (85%)	Amount Allowed (15%)
10725-01898	Massery, Morris	C/O Segel Goldman Mazzotta & Siegel Pe 9 Washington Sq Albany, NY 12205	1,802,040.00	101,466.67	86,246.67	15,220.00
10725-00221	Mullin, Elaine	3115 Merrill Dr #37 Torrance, CA 90503	220,000.00	70,000.00	59,500.00	10,500.00
10725-02170	Neal, Ronald Douglas	22853 Boxwood Ln Santa Clarita, CA 91390-4155	282,277.38	50,000.00	42,500.00	7,500.00
10725-01633	Philip Higerd Family Trust Dtd 5/30/03	C/O Philip C Higerd Trustee Po Box 2535 Mammoth Lakes, CA 93546-2535	250,000.00	50,000.00	42,500.00	7,500.00
10725-01878	Raggi, Dennis	Po Box 10475 Zephyr Cove, NV 89448	10,451.54	1,704.15 ¹	1,448.53	255.62
10725-02226	Raggi, Dennis	Po Box 10475 Zephyr Cove, NV 89448	4,884,068.70	75,000.00	63,750.00	11,250.00
10725-02188	Richard M Raker Living Trust Dtd 3/18/98	Richard M Raker Tee Pmb 274 969 Edgewater Blvd Foster City, Ca 94404	524,840.30	50,000.00	42,500.00	7,500.00
10725-01864	Richard W Gilmour Ira	C/O First Savings Bank Custodian PO Box 1241 Camano Island, WA 98292-1241	321,394.52	60,000.00	51,000.00	9,000.00
10725-01472	Santoro Family Trust UTD 4/29/02	C/O Nicholas J & Juanita Santoro T 2312 Pearl Crest St Las Vegas, NV 89134-6732	300,000.00	50,000.00	42,500.00	7,500.00
10725-02149	Schnitzer Living Trust Dtd 10/24/91	Arthur F & Linn S Schnitzer Trees 20155 Ne 38Th Ct, #1604 Aventura, FL 33180	3,549,806.80	50,000.00	42,500.00	7,500.00
10725-01386	Sinett, Todd & Wendy	11 Cedar LN Sands Point, NY 11050-1334	100,000.00	50,000.00	42,500.00	7,500.00

¹ Amount determined from statement attached.

EXHIBIT A